

Introduction to

Trusts for The Right Post-Retirement Protection

Prepared by
Len Stauffenger, Esq.
Attorney at Law

AFFINITY ADVISORY NETWORK, LLC
FINANCIAL FREEDOM SERIES

L.Stauffenger
LEN STAUFFENGER, ESQ
ATTORNEY AND COUNSEL AT LAW

Planning for a secure and comfortable retirement involves more than just saving money; it requires strategic measures to protect your assets and ensure your financial future. One of the most effective ways to achieve this is through the use of trusts. Trusts offer a range of benefits, from asset protection to tax advantages, and can be tailored to meet your specific needs and goals.

AFFINITY ADVISORY NETWORK, LLC



In this brochure, we will introduce you to five types of trusts that can offer comprehensive protection in post-retirement:

1. **Revocable Trust:** This entry-level trust offers flexibility and control. It allows you to make changes or revoke the trust during your lifetime. It helps avoid probate and ensures a smooth transfer of assets to your beneficiaries.
2. **Wholly-Owned Discretionary Trust:** This type of trust offers flexibility and control, allowing the trustee to manage and distribute assets at their discretion. It is ideal for protecting assets while providing for beneficiaries according to your wishes.
3. **Asset Preservation Trust (Medicaid Asset Protection Trust):** Designed to protect your assets from being spent down to qualify for Medicaid, this trust helps ensure that you can receive long-term care benefits without depleting your estate.
4. **Income Trust:** This trust is used to manage and distribute income, ensuring a steady stream of funds for your retirement needs. It can be particularly useful for managing income from various sources and providing financial stability.
5. **Fortress Trust:** Known for its robust protection features, this type of trust is designed to protect assets while ensuring eligibility for state and federal long-term care benefits. It is governed by IRS and Treasury regulations, making it a reliable and safe choice.

Each of these trusts serves a unique purpose and can be an integral part of your comprehensive retirement plan. By understanding the benefits and features of these trusts, you can make informed decisions to protect your assets, provide for your loved ones, and enjoy peace of mind in your retirement years.

Explore the following sections to learn more about each type of trust and how it can help you achieve your financial goals. If you have any questions or need personalized advice, our team at Affinity Advisory Network is here to assist you every step of the way.

Wholly-Owned Discretionary Trust

A Wholly-Owned Discretionary Trust is a versatile and flexible estate planning tool designed to provide maximum control over the distribution of your assets. This type of trust allows the trustee to manage and distribute the trust's assets at their discretion, based on the guidelines you set forth. It is particularly useful for ensuring that your assets are used in a manner that aligns with your wishes and the needs of your beneficiaries.

Typical Uses:

1. **Asset Protection:** Assets held in the trust are protected from nursing homes and help allow for qualification for state and federal benefits that can cover the costs of long-term care.
2. **Beneficiary Support:** Provides financial support to beneficiaries according to their needs, which can be particularly beneficial for those who may not be financially responsible or who have special needs.
3. **Tax Planning:** Can be structured to take advantage of various tax benefits, potentially reducing the overall tax burden on your estate.
4. **Estate Planning**: Helps in managing and distributing your estate efficiently, avoiding the delays and costs associated with probate.

Pros:

- **Flexibility:** The trustee has the discretion to make decisions about distributions, allowing for adjustments based on changing circumstances and needs of the beneficiaries.
- **Control:** You can set specific guidelines and conditions for how and when the assets are distributed, ensuring that your wishes are followed.
- **Asset Protection:** Assets held in the trust are protected from nursing homes and help allow for qualification for state and federal benefits that can cover the costs of long-term care.
- **Tax Benefits:** Depending on how the trust is structured, it can offer significant tax advantages, potentially reducing estate and income taxes.

Cons:

- **Complexity:** Setting up and managing a Wholly-Owned Discretionary Trust can be complex and may require professional assistance to ensure it is done correctly.
- **Costs:** There are costs associated with establishing and maintaining the trust, including legal fees and trustee fees.
- **Trustee Selection:** Choosing the right trustee is crucial, as they will have significant control over the trust's assets. It is important to select someone who is trustworthy and capable of managing the trust effectively.
- **Separate Tax Return:** This type of trust is formed using a separate tax ID number or EIN and will require the filing of a separate tax return every year.

A Wholly-Owned Discretionary Trust can be a powerful tool for protecting your assets and ensuring they are used according to your wishes. However, it is important to weigh the pros and cons and consult with a professional to determine if this type of trust is the right fit for your estate planning needs.



Asset Preservation Trusts

An Asset Preservation Trust, also known as a Medicaid Asset Protection Trust, is a specialized type of trust designed to protect your assets from being depleted by long-term care costs and to help you qualify for Waiver and/or Medicaid benefits. This trust allows you to preserve your wealth for your beneficiaries while ensuring that you can receive the care you need without exhausting your estate.

Typical Uses:

- **Medicaid Planning:** Helps individuals qualify for Waiver benefits by protecting assets from being counted towards eligibility.
- **Long-Term Care Costs:** Shields assets from being spent down to cover the high costs of long-term care, such as nursing home expenses.
- **Estate Preservation:** Ensures that your estate is preserved for your heirs, rather than being consumed by healthcare costs.
- **Financial Confidence:** Offers peace of mind and assurance that you have the resources needed for quality care.

Pros:

- **Asset Protection:** Assets placed in the trust are protected from being counted towards eligibility, allowing you to qualify for benefits without depleting your estate.
- **Preservation of Wealth:** Ensures that your wealth is preserved for your beneficiaries, rather than being spent on long-term care costs.
- **Control:** You can set specific terms and conditions for how the assets in the trust are managed and distributed.
- **Tax Benefits:** May offer certain tax advantages, depending on how the trust is structured and managed.

Cons:

- **Look-Back Period:** Medicaid has a five-year look-back period, meaning that any transfers to the trust within five years of applying for Medicaid may be subject to penalties.
- **Complexity:** Establishing and managing an Asset Preservation Trust can be complex and may require professional assistance to ensure compliance with Medicaid rules and regulations.
- **Costs:** There are costs associated with setting up and maintaining the trust, including legal fees and trustee fees.
- **Another Tax Return:** The Asset Preservation Trust may require the filing of a separate tax return each year.

An Asset Preservation Trust can be a valuable tool for protecting your assets and ensuring that you receive the care you need without depleting your estate. However, it is important to carefully consider the pros and cons and consult with a professional to determine if this type of trust is the right fit for your needs.

AFFINITY ADVISORY NETWORK, LLC

Income Trust

An Income Trust is a strategic financial tool designed to manage and distribute income in a way that meets your retirement needs and goals. This type of trust is particularly useful for individuals who want to ensure a steady stream of income during their retirement years while also managing tax liabilities and preserving their estate for future generations.

Typical Uses:

- **Steady Income Stream:** Designed to provide a reliable source of income for retirees, ensuring financial stability and peace of mind.
- **Tax Management:** Helps manage and potentially reduce tax liabilities by distributing income in a tax-efficient manner.
- **Estate Planning:** Assists in preserving the estate for beneficiaries by managing income and assets effectively.
- **Medicaid Planning:** In some states, it can be used to help meet Medicaid eligibility requirements by managing income levels.

Pros:

- **Financial Stability:** Designed to provide a consistent and predictable income stream, which is crucial for budgeting and financial planning in retirement.
- **Tax Efficiency:** Can be structured to distribute income in a way that minimizes tax liabilities, potentially reducing the overall tax burden.
- **Asset Protection:** Helps protect assets from being depleted by providing a managed income stream, preserving the principal for future needs or beneficiaries.
- **Flexibility:** Offers flexibility in how income is distributed, allowing for adjustments based on changing financial needs and circumstances.

Cons:

- **Complexity:** Setting up and managing an Income Trust can be complex and may require professional assistance to ensure it is done correctly.
- **Costs:** There are costs associated with establishing and maintaining the trust, including legal fees and trustee fees.
- **Another Tax Return:** This type of trust is created with a EIN or new tax ID number which may require the filing of a separate tax return each year.
- **Potential Restrictions:** There may be restrictions on how and when income can be distributed, which could limit flexibility in certain situations.

An Income Trust can be a powerful tool for ensuring financial stability and managing tax liabilities in retirement. However, it is important to carefully consider the pros and cons and consult with a professional to determine if this type of trust is the right fit for your financial goals.

Fortress Trust

A Fortress Trust is a robust non-statutory trust, which means it does not require any public disclosures. It is private. It is versatile estate planning tool designed to provide maximum asset protection and ensure eligibility for Medicaid benefits. This type of trust is a form of a Medicaid Asset Protection Trust (MAPT) and shares many similarities with traditional MAPTs. It is governed by specific IRS codes and Treasury regulations, making it a reliable option for safeguarding your assets.

Typical Uses:

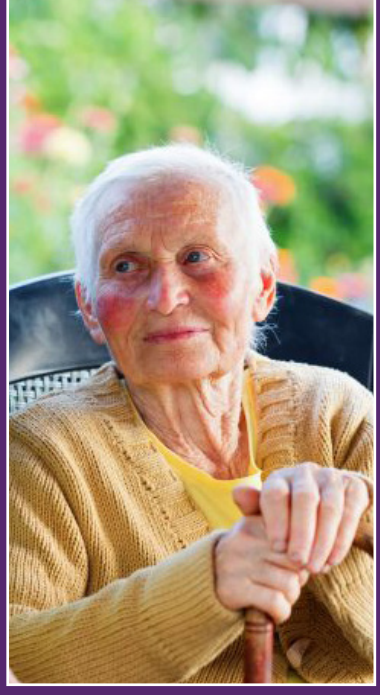
- **Medicaid Planning:** Helps individuals qualify for Medicaid benefits by protecting assets from being counted towards Medicaid eligibility.
- **Estate Preservation:** Helps to ensure that your estate is preserved for your heirs, rather than being consumed by healthcare costs.
- **Flexibility in Beneficiary Designation:** Allows for changes in beneficiaries and includes a Trust Protector to change the trustee if necessary.

Pros:

- **Medicaid Eligibility:** Helps you qualify for Waiver and Skilled Nursing benefits without depleting your estate, ensuring you receive the care you deserve.
- **No High-Net-Worth Requirement:** Suitable for individuals of all financial backgrounds; even a single asset like a house can be placed in the trust.
- **Control and Flexibility:** The client can be the creator, grantor, and trustee, but not the beneficiary, ensuring control over the trust while protecting the assets.
- **Tax Benefits:** Taxes on principal growth or interest are reported on the client's personal tax returns, but the client remains separate from the trust assets.
- **Step-Up Basis:** Provides a step-up in basis, which can be beneficial for tax purposes.
- **Trust Protector:** Includes a Trust Protector, allowing for changes in the trustee if needed.
- **Long-Term Reliability:** Has been a proven tool for over 12 years, ensuring long-term reliability and effectiveness.

Cons:

- **Complexity:** Establishing and managing a Fortress Trust can be complex and should be executed with professional assistance to ensure compliance with legal and tax regulations.
- **Costs:** There are costs associated with setting up and maintaining the trust, including legal fees and trustee fees.
- **Non-Permitted Beneficiary:** The client cannot be a beneficiary, which means they do not have direct access to the trust assets, even though they pay taxes on the income generated.
- **Gifting Strategy:** This type of trust may require the use of a Gifting Strategy to access funds when needed.



A Fortress Trust can be a powerful tool for protecting your assets and ensuring eligibility for state and federal benefits. However, it is important to carefully consider the pros and cons and consult with a professional to determine if this type of trust is the right fit for your goals. For more information or professional assistance, please contact our team at Affinity Advisory Network. We are here to help you navigate the complexities and make it easier for you to secure your financial future.

AFFINITY ADVISORY NETWORK, LLC

Why the Fortress Trust is Popular Among Post-Retirement Clients

The Fortress Trust has gained significant popularity among post-retirement clients due to its unique combination of control, flexibility, and asset protection. Here are some key reasons why it stands out:

1. **Maximum Control:** The Fortress Trust allows you to be the Creator, Grantor, and Trustee, giving you full control over your assets. This means you can manage and oversee the trust according to your wishes while ensuring your assets are protected.

2. **Flexibility in Beneficiary Designations:** One of the standout features of the Fortress Trust is the ability to change beneficiary designations. This flexibility ensures that your trust can adapt to changing family dynamics and personal circumstances.

3. **Trustee Changes:** The Fortress Trust includes a Trust Protector, which allows for changes to the Trustee if needed. This ensures that the trust remains managed by someone you trust and who aligns with your goals.

4. **Non-Statutory Trust:** As a non-statutory trust, the Fortress Trust offers far more flexibility compared to statutory trusts. This means it can be tailored to meet your specific needs and provide comprehensive protection for your assets.

These features make the Fortress Trust an attractive option for those looking to secure their financial future, protect their assets, and maintain control over their estate. Its popularity is a testament to its effectiveness in meeting the complex needs of post-retirement planning.

AFFINITY ADVISORY NETWORK, LLC

Revocable Trust

A Revocable Trust is an entry-level trust commonly created using your own Social Security number. It is also known as a Living Trust. It allows the grantor to retain control over the trust assets during their lifetime. The grantor can modify or revoke the trust at any time, making it a flexible estate planning tool. Upon the grantor's death, the trust becomes irrevocable, and the assets are distributed according to the grantor's wishes, bypassing probate. This type of trust can simplify the estate administration process, reduce legal fees, and provide privacy, as the trust's terms are not made public. Additionally, a revocable trust can be used to manage the grantor's assets in the event of incapacity, ensuring that their financial affairs are handled according to their instructions.

A revocable trust, also known as a living trust, offers flexibility and control over your assets during your lifetime. However, it has several disadvantages, particularly when it comes to protecting assets from long-term care expenses:

1. **Lack of Asset Protection:** Assets in a revocable trust are still considered part of your estate. This means they are not protected from creditors or legal judgments. If you face significant medical expenses or long-term care costs, these assets can be used to pay those bills.
2. **Medicaid Eligibility:** For those seeking Medicaid to cover long-term care costs, assets in a revocable trust are counted as part of your resources. This can disqualify you from receiving Medicaid benefits until those assets are spent down.
3. **Estate Taxes:** Assets in a revocable trust are included in your gross estate for federal estate tax purposes. This means your estate may still be subject to estate taxes, reducing the amount passed on to your beneficiaries.
4. **No Immediate Tax Benefits:** Shifting assets into a revocable trust does not provide immediate income or estate tax benefits. The trust's primary advantage is avoiding probate, not reducing tax liabilities.
5. **Administrative Burden:** Setting up and maintaining a revocable trust requires time and effort. Assets must be retitled in the name of the trust, and the estate plan must be regularly reviewed to ensure it meets your objectives.

While revocable trusts offer control and flexibility, they do not provide the complete protection necessary from long-term care expenses. For those concerned about protecting assets from such costs, an irrevocable trust or other estate planning tools might be more appropriate.

Each of these trusts serves a unique purpose and can be tailored to meet your specific needs and goals. It's important to consult with a financial advisor or estate planning attorney to determine which type of trust is best suited for your situation.



AFFINITY ADVISORY NETWORK, LLC

Common Concerns with Trusts

Creating a trust is a crucial step in estate planning, but there are several common mistakes that people often make. Here are some key pitfalls to avoid:

1. Failing to Fund the Trust
One of the most significant mistakes is not funding the trust. This means not transferring your assets into the trust's name. Without funding, the trust is essentially an empty shell and won't serve its intended purpose of avoiding probate and managing your assets.

2. Choosing the Wrong Trustee
Selecting an inappropriate trustee can lead to mismanagement of the trust assets. It's essential to choose someone who is trustworthy, financially savvy, and capable of handling the responsibilities. Sometimes, people appoint family members without considering their ability to manage the trust effectively. It may be wise to have a section written into your trust that allows you to change trustees at any time.

3. Not Reviewing and Updating the Trust Regularly
Life changes such as marriage, divorce, birth of children, or significant financial changes should prompt a review of your trust. Failing to update the trust can result in outdated provisions that no longer reflect your current wishes or circumstances.

4. Setting Vague or Conflicting Terms
The terms of the trust should be clear and unambiguous. Vague or conflicting terms can lead to disputes among beneficiaries and may require court intervention to resolve, which can be costly and time-consuming.

5. Overlooking Tax Implications
Trusts can have significant tax implications. It's important to understand how the trust will be taxed and to plan accordingly. Consulting with a tax advisor or estate planning attorney can help you navigate these complexities.

6. Not Considering the Type of Trust
There are various types of trusts, each serving different purposes. Choosing the wrong type of trust can result in it not meeting your needs. For example, a revocable trust offers flexibility but doesn't provide asset protection from creditors, whereas an irrevocable trust does.

7. Ignoring State Laws
Trust laws vary by state, and what works in one state may not be valid in another. It's crucial to ensure that your trust complies with the laws of your state to avoid legal issues down the line.

8. Failing to Communicate with Beneficiaries
Lack of communication with beneficiaries can lead to misunderstandings and disputes. It's often helpful to discuss your plans with your beneficiaries to set expectations and explain your decisions.

9. Not having a Pour-Over Will
A pour-over will direct any assets not included in the trust at the time of your death to be transferred into the trust automatically. This ensures that all intended assets are transferred to the trust when necessary without additional decisions.

10. Not Seeking Professional Guidance
Creating a trust involves complex legal and financial considerations. Attempting to do it without professional help can lead to mistakes that could have been avoided. Consulting with an estate planning attorney can help ensure that your trust is set up correctly and meets your goals.

Avoiding these common mistakes can help ensure that your trust effectively protects your assets and fulfills your estate planning objectives. If you have any specific questions or need further assistance, feel free to ask!

Why Affinity Advisory Network

At Affinity Advisory Network, we understand that planning for retirement and protecting your assets can be a complex and overwhelming process. We make this process easier with our multi-disciplinary approach. Our team comprises professionals from various fields, including a network of law firms and attorneys. When referred to one of these specialized attorneys, you know you'll get advice that fits your plans and goals. The following are seven reasons Affinity is the right choice to help you complete your asset protection plan:

1. Holistic Approach

- Our firm is comprised of a diverse team of skilled professionals, including:
- Attorneys: Ensure your legal documents are in order and provide guidance on estate planning and asset protection.
- Tax Professionals: Help you navigate the complexities of tax laws to minimize your tax obligations.
- Retirement Planners: Assist in creating a retirement plan designed to provide financial confidence and peace of mind.
- Investment Professionals: These are investment professionals who focus on managing your investments, often utilizing managed accounts.
- Insurance Professionals: Offer insurance products and solutions to protect your assets and provide for your loved ones.

This multi-disciplinary approach means that all aspects of your retirement and legacy plans are handled under one roof, ensuring a cohesive and well-coordinated strategy.

2. Coordination

One of the biggest challenges in asset protection and retirement planning is coordinating the various elements involved. At Affinity Advisory Network, we take on this task for you. Our professionals work together to help ensure that every aspect of your plan is aligned and optimized. This eliminates the need for you to juggle multiple advisors and reduces the risk of errors and oversights.

3. Customized Solutions

We recognize that every client's situation is unique. Our team takes the time to understand your specific needs, goals, and concerns. Whether you're looking to minimize tax obligations, maximize income, or establish a lasting legacy, we tailor our solutions to help meet your objectives. Our personalized approach ensures that you receive a plan that is as unique as you are.

4. Comprehensive Asset Protection

Protecting your assets from potential risks such as long-term care costs, creditors, and probate is crucial. Our attorneys, financial advisors, and insurance agents work together to create robust asset protection strategies designed to help safeguard your wealth. From setting up trusts to selecting the right insurance policies, we cover all bases to help ensure your assets are protected.

5. Tax Efficiency

Tax planning is a crucial component of any financial strategy. Our tax professionals are well-versed in the latest tax laws and regulations. They work closely with our financial advisors to develop strategies designed to minimize your tax burden, allowing you to keep more of your hard-earned money.

6. Maximized Income and Legacy Goals

Our retirement planners and financial advisors collaborate to create plans designed to maximize your income during retirement while preserving your wealth for future generations. We focus on sustainable income strategies designed to provide assurance throughout your retirement years. Additionally, our estate planning attorneys help ensure that your legacy is passed on according to your wishes, with minimal tax implications.

7. Peace of Mind

By choosing Affinity Advisory Network, you can gain peace of mind knowing that your financial future is in capable hands. Our team's knowledge and collaborative approach help ensure that every detail is considered and allows you to focus on your retirement.

Conclusion

At Affinity Advisory Network, we are committed to providing you with a comprehensive, well-coordinated asset protection plan that meets your needs. Our multi-disciplinary team of professionals works together to help minimize tax obligations, maximize your income, and protect your legacy. Don't leave your financial future to chance – choose Affinity Advisory Network for a holistic and personalized approach to retirement and asset protection planning.

Ready to take the next step? Contact us today to schedule a consultation and discover how we can help you achieve your financial goals.

Affinity Advisory Network, LLC is a financial services firm helping clients prepare for retirement through the use of insurance and investment products and services. We are not endorsed by or affiliated with any government agency. Affinity Advisory Network, LLC is a network of professionals acting together for the overall benefit of each client, including CPAs, Insurance Agents, Accountants, Real Estate professionals, VA Accredited Claims Agents, and Attorneys. Many of the professionals within the network are independent of the Affinity Advisory Network and maintain their own licenses.

This content is for informational purposes only and does not intend to make an offer or solicitation for sale or purchase of any securities. Any illustrations provided come from the recommended insurance companies utilizing the insurance company projections made available via software. Any spreadsheets used during initial meetings are used solely for information and a general understanding of the overall plan. Assumptions within the spreadsheet come from the projected numbers of the insurance or investment company being recommended as part of the plan. Affinity Advisory Network does not allow clients or agents to use independent numbers. It is a requirement to use the projected numbers from the companies involved.

Investing involves risk, including the potential loss of principal. No investment strategy, such as asset allocation or diversification, can guarantee a profit or protect against loss in periods of declining values. Changes in investment strategies, contributions or withdrawals, and economic conditions may materially affect the performance of your portfolio. There are no assurances that a portfolio will match or outperform any particular benchmark. Investors should carefully consider the investment objectives, risks, fees and expenses before investing. Any financial services firms referenced in this material do not provide tax or legal advice. Please consult with your tax or legal professional regarding specific issues prior to making a tax or legal decision. Insurance product guarantees are backed by the financial strength and claims-paying ability of the issuing company. Product and feature availability may vary by state.

If you would like a written opinion you can rely on, please contact an accountant, financial adviser, or attorney. The materials contained herein are not intended to, and do not constitute, legal or financial advice. Attorneys are licensed in limited jurisdictions. The firm does not intend to practice law in any state in which we do not have licensed attorneys, and this information is not intended to solicit representation that would constitute the unauthorized practice of law in any jurisdiction. Hiring a lawyer is an important decision that should not be based solely on this material. Before you decide, please contact us for further information about our qualifications and experience. Neither transmission nor receipt of these materials creates an attorney-client relationship between the sender and the receiver.

Insurance products are sold based on the best interest standard at both the state and insurance carrier level. This means that insurance and annuity recommendations must be in the best interest of the client with any conflicts of interest fully disclosed to the client. Insurance licensed producers may earn commissions for the sale of insurance products, which are separate from investment advisory fees. Additional details are available in our firm's ADV Part 2A and Form CRS (for advisory services) and the Insurance Agent Disclosure for Annuities form (for annuity recommendations).

Life insurance and annuities are long term retirement income vehicles, and are not suitable for everyone. They involve fees and charges, including potential surrender penalties. Interest credits for Fixed Indexed Annuities are limited at the discretion of the issuing company. Optional riders and benefits may involve an additional annual fee. Product and feature availability may vary by state.

Annuity withdrawals are subject to ordinary income taxes, including an additional 10% IRS penalty before age 59-1/2. An FIA does not directly participate in the index or any equity or fixed interest investments. You are not buying shares in an index. Insurance agents do not provide tax or legal advice.

Annuity guarantees are backed by the financial strength and claims-paying ability of the issuing company, and for variable annuities, do not apply to the performance of the variable sub-accounts which will fluctuate with market conditions.

Investment advisory and financial planning services offered through AAN Wealth Advisors, LLC, a State of Ohio Investment Advisor. Sub-advisory services are provided by Advisory Alpha LLC, A SEC registered Investment Advisor. AAN Wealth and Advisory Alpha, LLC are separate and unaffiliated entities. Registration with the SEC or state does not constitute an endorsement of the firm by regulators, nor does it indicate that the adviser has attained a particular level of skill or ability.